



Mr. Paul Tang
Chair of the Subcommittee on
Tax Matters
European Parliament
B-1047 Brussels

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Luxembourg, 17 September 2021

Subject: Reply to: *Invitation to an exchange of views on 14 October 2021 in the afternoon with the Subcommittee on Tax Matters (FISC) on alleged informal tax rulings by means of “information letters” endorsed by the Luxembourgish tax authority (the “Luxletters revelations”)*

Dear Chair,

In response to your letter dated 9 September 2021, and with reference to the above-mentioned subject matter, I would like to thank you for your invitation for a debate with the Subcommittee on Tax Matters (FISC) of the European Parliament. It is with regret that I must inform you that I will not be able to participate in the exchange of views on 14 October 2021, as that same week Prime Minister Xavier Bettel will be presenting the State of the Nation to the Luxembourg Parliament and I will be presenting the budget law for the year 2022.

Having in mind the focus of the work of the FISC Subcommittee notably in the area of tax transparency, and given that the meeting on 14 October 2021 will debate the recent allegations as regards so-called “information letters” in Luxembourg, I would like to submit some observations and explanations in this respect, to shed additional light on the issue and contribute to an objective debate in the FISC Subcommittee.

As you well know, Luxembourg is fully committed to transparency in tax matters and applies all relevant EU and international standards as regards the exchange of tax rulings. Since the transposition of the “DAC 3” directive in 2016, and taking into account the relevant OECD framework, Luxembourg has exchanged around 11.500 rulings with other European and non-European tax administrations.

With respect more specifically to the allegations originating from reports of some European newspapers in July 2021 regarding so-called informal tax rulings in Luxembourg, I can only state that those allegations are erroneous. Under Luxembourg law, there can be no informal, tacit or oral confirmation from the tax administration about the tax situation of a taxpayer on the basis of letters written either by the taxpayers themselves or by their tax advisers.

Any such correspondence with the tax administration would be purely unilateral and would have no effect on the tax administration. Therefore, letters sent by the taxpayer to the tax administration cannot be considered as tax rulings or equivalent, or be interpreted as a confirmation by the administration of a given tax situation. If a taxpayer wishes to obtain legal certainty as to the envisaged transactions, he can file a formal request for a tax ruling. This formal request will then be examined by the tax administration based on the relevant provisions of tax law, and in accordance with the applicable procedural requirements. All tax rulings issued by the Luxembourg tax administration are in written form.

Furthermore, it is worth noting that the objective of a tax ruling is to bring clarity and legal certainty to taxpayers. The notion of informal letters tacitly approved by silence of the tax authorities is the exact opposite of legal certainty and would therefore have absolutely no value for a tax advisor or their client. It is worth highlighting at this stage that on the basis of the definition of "DAC 3" directive, any tax ruling or any other document having a similar effect can, by definition, only be issued by the government or the tax authority and cannot be a document emanating from a taxpayer.

Finally, I would like to point out that the mere fact that taxpayers might send unsolicited correspondence to the tax administration is not a Luxembourg specificity, and is obviously very common.

As a conclusion, allegations as regards informal tax rulings in Luxembourg are unsubstantiated and unfounded. I hope that the clarifications provided above will prove useful for the upcoming discussions in the FISC Subcommittee.

Please accept, dear Chair, the expression of my highest consideration.



Pierre Gramegna
Minister of Finance

Cc: H.E. Mr. Georges FRIDEN, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Luxembourg (COREPER II)